

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

JOHN O. STUDY,)	
)	
Plaintiff,)	
)	No. 1:10-cv-0153-WTL-DML
v.)	
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Defendants.)	

ENTRY

Judgment dismissing this action was entered on the clerk's docket on May 10, 2010. The plaintiff's emergency motion filed on May 28, 2010, was treated as a motion to alter or amend judgment and was denied on June 3, 2010. This ruling has been followed by the plaintiff's motion for reconsideration and motion for leave to amend. Additionally, the plaintiff has filed a notice of appeal, which has been processed. The appeal has been docketed as No. 10-2370.

I.

The date a post-judgment motion is filed is significant. *See Hope v. United States*, 43 F.3d 1140, 1142 (7th Cir. 1994). So too, of course, is the content of such motion. The motion for reconsideration was filed beyond the time limit for the filing of a motion pursuant to Rule 59(e)—a time limit which this court has no power to extend—and thus the motion for reconsideration will be treated as a motion for relief from judgment pursuant to Rule 60(b) of the *Federal Rules of Civil Procedure*,

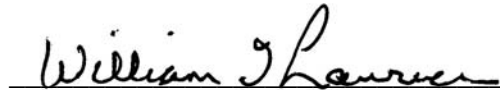
Here, the plaintiff states that the court erred by submitting the action to the screening requirement of 28 U.S.C. § 1915A(b). This was the same argument asserted in the emergency motion filed on May 28, 2010, and the argument was properly rejected. An epigram widely attributed to Abraham Lincoln is appropriate in this case: How many legs does a dog have if you count his tail as a leg? Four. You can call a tail a leg if you want to, but it doesn't make it a leg. Our plaintiff can disclaim that his complaint is subject to 28 U.S.C. § 1915A, but his disclaimer does not make it so. The plaintiff's motion for reconsideration (dkt 42), treated as a motion for relief from judgment pursuant to Rule 60(b), is **denied**.

II.

The plaintiff's motion for leave to amend (dkt 42) has also been considered and is **denied** because "[i]t is well settled that after a final judgment, a plaintiff may amend a complaint under Rule 15(a) only with leave of court after a motion under Rule 59(e) or Rule 60(b) has been made and the judgment has been set aside or vacated." *Figgie Int'l, Inc. v. Miller*, 966 F.2d 1178, 1179 (7th Cir. 1992). The final judgment in this case has not been vacated or set aside.

IT IS SO ORDERED.

Date: 06/16/2010

A handwritten signature in black ink, reading "William T. Lawrence", written over a horizontal line.

Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

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